



FREQUENTLY ASKED QUESTIONS

1. Q. Is the employee assigned to a position that has been approved for special retirement coverage?

A. The authority to approve positions has been delegated to the Department of the Interior by the Office of Personnel Management (OPM); however, the Firefighter & Law Enforcement Retirement Team (FLERT) has been delegated the authority to make recommendations of special retirement coverage for the Department.

The following process should be followed when seeking a coverage determination:

- Verify if the position is an established benchmark/standard position description. If it is the benchmark should be used whenever possible. Once the position approval status has been verified, continue with the special coverage determination for the employee.

If no, the employee will be in FERS (Code K). The information below discusses the agency and employee actions to request position approval:

- **Agency Request:** The employing office may request approval of special retirement coverage for the position. The position description and other required documentation must be submitted to the Firefighter and Law Enforcement Retirement Team for review and recommendation to the Department. Upon receipt of the Departments decision, the servicing human resource office will continue with the coverage determination for the position. Further information pertaining to submit position descriptions for a coverage determination may be found at <http://flert.nifc.gov/>.
- **Employee Request:** If the employing office does not request position approval or if the position approval has already been denied, the employee may request that his/her position be reviewed for an individual determination of coverage.

The employee's request for position approval is governed by the regulations in 5 C.F.R § 842.804(c). The employee has the burden of proving that their position meets the legal definition of a firefighter or law enforcement officer. The definitions can be found in 5 C.F.R § 842.802. The employee's request must be submitted, formally, and in writing, within six months of entering a position or after a significant change in title, series, grade, major duties, or position number/classification. If the employee does not request coverage within six months, the Department's determination that the position is not covered at the time of service is presumed to be correct.

The Department will enforce this time limit unless the employee proves that he/she was prevented from circumstances beyond his/her control from submitting the request within the time limit or that the employee was unaware of his/her status.

Only the Department has the authority to grant a waiver of the time limit.

2. What is the maximum entry age for individual's who are placed into a FF/LEO position?

A. Congress established a policy of employing a "young and physically vigorous" workforce in all firefighter and law enforcement positions that involve sufficiently rigorous duties. Pursuant to 5 C.F.R. § 842 Subpart H initial hires into a primary/rigorous firefighting or law enforcement positions, must satisfy the age and physical requirements. The Department has determined that the date immediately preceding an individual's 37th birthday is the maximum entry date at which an applicant can be initially hired into a primary/rigorous firefighter or law enforcement position.

3. Q. You have verified that the employee's position is approved for special retirement coverage. Was the position coverage approved under the primary/rigorous category or the secondary (administrative or supervisory) category? Do you have the Agency Certification Sheet or an approval letter from the Office of Personnel Management, Department of the Interior or other Department?

- A.** Yes. The certification sheet and/or letters will state whether the approval is the primary/rigorous or secondary category. OF-08, Position Description Coversheets that contain the FF/LEO approval stamp do not reflect that a valid determination has been made and may not be used to certify coverage under special retirement. If you do not have documentation to support coverage, you cannot place the employee into special retirement.
- B.** If the position has been identified as an approved primary/rigorous position, you will place the employee into FERS & FICA - Special (M) and stop.
- C.** If the position has been identified as an approved secondary (administrative or supervisory) position, you will have to confirm that the employee has met the secondary transfer requirements. If the transfer requirements have been met, you will place the employee into FERS & FICA – Special (M). Continue with question 3

4. Q. Have you determined if the approved position has been approved for special retirement under the secondary category? If so, you will need to determine whether the employee meets (or has met) the transfer requirements for coverage in a secondary position.

Was the employee transferred, reassigned, or appointed to the secondary position directly from a primary/rigorous position? "Directly" means with a break in-service of no more than 3 days.

A. Yes, the employee moved directly from a primary/rigorous position to the secondary position. Continue with question 4

No, the employee did not move directly from a primary/rigorous position to the secondary position.

(1) If the employee's previous position was an approved secondary position, continue to question 5

(2) If the employee's previous position was not an approved secondary position, the employee did not meet the transfer requirements for coverage (5 C.F.R. § 842.803). The employee's service history should fall within one of these categories: the employee has never served in an approved primary/rigorous position; or the employee has served in a

primary/rigorous position, but there had been a break of more than 3 days. Code the employee FERS & FICA (K). Stop.

5. Q. You've determined that the employee's previous position was a primary/rigorous position. Was the employee covered under the special retirement provisions while in the primary/rigorous position, FERS & FICA – Special (M)?

Note: Employees serving in an approved primary/rigorous position under a permanent appointment should be coded under the special retirement provisions (code M). Employees serving in an approved primary/rigorous position under non-permanent appointments (i.e., temporary appointment) would be covered under FICA (2) only.

A. Yes, the employee was covered under the special retirement provisions while serving in the primary/rigorous position and transferred directly to the secondary position.

(1) Has the employee served in a primary/rigorous position for at least three years? Review the employee's service history to make this determination. Be sure to include: non-deduction service in approved CSRS primary or FERS primary/rigorous positions (i.e. covered by FICA (2) only) even if the non-deduction service was performed after January 1, 1989; and service in approved CSRS primary positions. See CSRS/FERS Handbook, Chapter 20, A3.1-1, Section F, Nondeduction Service.

a) Yes, the employee transferred directly from a primary/rigorous position and the employee had at least three years of service in a primary position. The employee would continue to be covered under the special provisions while in the secondary position. Code the employee FERS & FICA – Special (code M). Stop

b) No, although the employee transferred directly from a rigorous position, the employee did not have at least three years of service in rigorous positions. The employee did not meet the transfer requirements for special retirement coverage. Code the employee as FERS & FICA (K). Stop.

Note: Employee deductions made by an employee erroneously covered under special retirement program (M) must be issued a refund due to the erroneous appointment.

B. No, the employee was previously serving in a primary/rigorous position, but did not have special retirement coverage (i.e., the employee was serving under a temporary appointment and was coded as FICA (2) only). The employee did not meet the transfer requirements for coverage under the secondary position. Code the employee FERS & FICA (K) and stop.

6. Q. You've determined that the employee's previous and current positions are approved for secondary positions. Did the employee have special retirement coverage in the previous secondary position?

A. Don't know. Review the employee's service history. Follow the steps in the special retirement determination process to determine whether the employee had met the transfer requirements for coverage in the previous position(s). Continue with coverage determination steps when you have the answer.

B. Yes, the employee was covered under the special retirement provisions in the previous secondary position.

(1) Has the employee been continuously employed (see note) in secondary positions since transferring from a primary/rigorous position?

Note – Continuously employed:

- ➔ Service is continuous if there are no breaks of more than three days
- ➔ Do not count breaks which began with an involuntary separation, unless the involuntary separation was a removal for cause on charges of misconduct or delinquency.

- a) Yes, the employee has been continuously employed in secondary positions since transferring from a primary/rigorous position. The employee remains covered under the special provisions. Code the employee FERS & FICA – Special (code M). Stop
- b) No, the employee has not been continuously employed in secondary positions since transferring from a primary/rigorous position. The employee does not meet the transfer requirements for coverage in the secondary position. Code the employee as FERS & FICA (K). Stop.

7. Q. Can a new employee (without any prior Federal civilian service) be hired directly into a secondary position or do they have to serve in an approved primary/rigorous position first?

A. If an applicant meets the qualifications for the position (education/experience), they can be hired directly into an approved secondary/**supervisory** position. If the position is an approved secondary/**administrative** position the applicant must have experience in a primary/rigorous position or equivalent experience from a position outside the Federal government to qualify for the position (for example: experience as a “front-line” firefighter for their state or county fire departments).

In either case, the employee **will not** be eligible for special retirement coverage. Even if the applicant fully qualifies for the secondary position, he/she cannot be covered under the special retirement provisions because the transfer requirements for special retirement coverage in a secondary position were not met (i.e., moving directly from a primary/rigorous position to the secondary position).

8. Q. If a CSRS or FERS employee completes five (5) years of service, in an approved primary/rigorous position, then separates or moves into a non-covered position, can he/she be rehired into a secondary position? If so, will they have special retirement coverage?

A. As long as they meet the qualification requirements for the position, they can be rehired into a secondary position.

However, the employee **will not** be eligible for special retirement coverage. An employee appointed or assigned to a secondary position must have moved directly from an approved primary/rigorous position to the secondary position (i.e., without a break greater than 3 days). The “direct move” is always required, even if the break between the primary/rigorous and secondary positions was involuntary. The involuntary break rule is applicable only after the employee moves directly from the primary/rigorous position to the secondary position.

If, after the break from the primary/rigorous position, the employee has been appointed or assigned to the primary/rigorous position for any length of time (one day/one pay period), he/she would be able to retain coverage when they move into the secondary position.

9. Q. Do FF/LEO employees make additional contributions to the retirement fund?

A. Yes. FF/LEO employees covered under the special retirement provision must contribute an extra one-half percent of their salary to the retirement fund.

- 10. Q.** If an employee was a FF/LEO for 5 years, then moved to a non-covered position for the rest of their career, can he get a refund of the extra one-half percent he paid during the 5 years as a FF/LEO employee when retires under a “regular” voluntary retirement?

A. No. The extra one-half percent of retirement contributions is not separately refundable.

- 11. Q.** Will the employee receive a refund of the one-half percent contributions if it is determined that he/she was erroneously placed into special retirement? If so, how is this accomplished?

A. Yes. If the employee was erroneously appointed to a covered position or they did not meet the secondary transition requirements.

Note: The employee would have to submit a written request to the servicing human resource office to request a refund of the extra one-half percent contributions. The servicing human resources office would have to correct the employee’s personnel records to reflect the correct retirement system and then submit the request to the appropriate payroll office for the issuance of a refund.

- 12. Q.** Are FF/LEO employees subject to mandatory separation?

A. Yes. Mandatory separation applies to all employees serving in approved FF/LEO positions and covered under the special retirement provisions. Mandatory separation is required at age 57, if they have 20 years of service in approved FF/LEO positions. If the FF/LEO does not have the required 20 years of service, the employee must be separated on the last day of the month in which he or she completes 20 years of service. (Reference 5 U.S.C. § 8335(b) and 5 U.S.C. § 8425(b)).

In accordance with 5 U.S.C. § 8425, an individual over the age of 60 cannot remain in a special retirement position and is subject to mandatory separation past the age of 60.

Note: 1) A 60-day written notice is required before the FF/LEO can be separated under mandatory retirement; 2) If the FF/LEO moves into a non-FF/LEO position, they will not be subject to the mandatory separation provisions.

- 13. Q.** Can a FF/LEO who is eligible for optional retirement (age 55/MRA with 30 years of service) but only has 18 years of FF/LEO service, retire and have their annuity computed under the special provisions? Would the extra one-half percent contribution be refunded?

A. No, they must have at least 20 years of service as a FF/LEO in order for their annuity to be computed under the special provisions. This annuity would be computed under the regular provisions. No. The extra one-half percent employee contribution would not be refunded.

- 14. Q.** Would an employee who has less than 20 years of service, who is age of 60 be eligible for special retirement?

A. No. The employee would be ineligible for special retirement because they do not have the required 20 years of service. The employee would be subject to mandatory separation. (Reference 5 U.S.C. § 8425(b)).

15. Would the employee be eligible for a refund of the extra one-half percent contribution made into special retirement if they did not have the required 20 years at age 60?

A. No. The employee would have been placed into an erroneous appointment and would be eligible for a refund of the contributions. A request for a refund must be made by the employee in writing and submitted to the servicing human resources office.

16. Q. Can employees request an exemption from mandatory separation?

A. A request for an exemption may be initiated by the employee, but must be submitted for approval by the bureau agency head. Approval of exemptions from mandatory separation will be considered on a case-by-case basis for employees under age 60. (Reference U.S.C. § 8425(b)).

Note: Requests for exemptions beyond the employee's 60th birthday must be submitted through the Agency, to the Department, then to OPM. OPM has been delegated the authority to approve exemptions for CSRS employees, but the President of the United States retains the authority to approve exemptions for FERS employees.

17. Q. Would the time spent on the Office of Workers Compensation (OWCP) rolls count toward creditable service under the special retirement provisions for FF/LEO once the individual is reemployed in the Federal government?

A. Yes, if it is verified that the former employee was in receipt of OWCP benefits. Upon return to Federal employment, OWCP recipients must not incur a loss of benefits that they would have received but for the injury, this includes credit for length of service. The OWCP time would be treated as a period of "deemed leave without pay" (LWOP). Since the employee's position of record before his/her separation was a FF/LEO position, the deemed LWOP would provide FF/LEO service credit upon reemployment. (Reference 5 U.S.C. § 8151 and 5 U.S.C. § 8332(f)).

Note: The position of record will govern the employee's retirement coverage after reemployment. If the employee was reemployed into an approved primary/rigorous or secondary position, he/she would be eligible for special retirement coverage. If the employee was reemployed into a non-FF/LEO position, he/she would not be eligible for special retirement coverage.